

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TED SANGER,

Defendant.

No. 06-CR-79-LRR

ORDER

The matter before the court is Defendant Ted Sanger's Motion to Suppress (docket no. 13).

I. PROCEDURAL BACKGROUND

On June 7, 2006, the grand jury returned a one-count Indictment against Defendant. The Indictment charges that, on about July 24, 2003, Defendant, who was an unlawful user of controlled substances, specifically marijuana and methamphetamine, knowingly and unlawfully possessed, in and affecting commerce, one or more of the following firearms:

- (1) a Browning 16 gauge shotgun, serial number X37625;
- (2) a Remington 12 gauge shotgun, serial number T701395M;
- (3) a Harrington an [sic] Richardson 16 gauge shotgun, serial number H78890;
- (4) a Winchester .22, serial number B2199200;
- (5) a Ruger .22 pistol, serial number 11-78197;
- (6) a Beretta 9 mm, serial number BER165498; and
- (7) a Norinco AK47 7.62 rifle, serial number 9453967;

and the following ammunition:

- (1) one 30 round 223 caliber;
- (2) eight 16 gauge shotgun shells;

- (3) two boxes of Remington 22 shells;
- (4) fourteen 20 round boxes of Russian type 7.62 hollow point shells; and
- (5) one 20 round box of 7.62 ammunition;

in violation of 18 U.S.C. §§ 922(g)(3) and 924(a)(2).

On July 14, 2006, Defendant filed a Motion requesting that the court suppress all items seized from his residence by law enforcement officers on July 24, 2003. On July 20, 2006, the government filed a Resistance to Defendant's Motion.

On August 3, 2006, Chief Magistrate Judge John A. Jarvey held a hearing on Defendant's Motion. Defendant was personally present at the hearing and was represented by Raphael Scheetz. Assistant United States Attorney Matthew Cole represented the government. On August 9, 2006, Magistrate Judge Jarvey entered a Report and Recommendation, which recommended that the Defendant's Motion be denied. Defendant did not file an objection to the August 9, 2006 Report and Recommendation.

The court therefore finds the Defendant's Motion fully submitted and ready for decision.

II. ANALYSIS


The district court judge is required to make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which a movant objects. 28 U.S.C. § 636(b)(1)(C); *see also United States v. Lothridge*, 324 F.3d 599, 600 (8th Cir. 2003). The district court judge may accept, reject or modify, in whole or in part, the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); *see also United States v. Trice*, 864 F.2d 1421, 1424 (8th Cir. 1988). Objections to the Report and Recommendation were due on August 23, 2006. Defendant did not file an objection. The court adopts Magistrate Judge Jarvey's August 9, 2006 Report and Recommendation in its entirety.

III. CONCLUSION

IT IS ORDERED:

- (1) The court **DENIES** Defendant Ted Sanger's Motion to Suppress (docket no. 13);
- (2) The court **ADOPTS** Magistrate Judge Jarvey's Report and Recommendation of August 9, 2006 (docket no. 23); and
- (3) The period between the filing of Defendant's Motion and this Order is excluded from calculation under the Speedy Trial Act. 18 U.S.C. § 3161(h)(1)(F) (excluding delay resulting from the filing of any pretrial motion through the conclusion of the hearing thereon); 18 U.S.C. § 3161(h)(1)(J) (excluding "delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the court").

DATED this 18th day of September, 2006.



LINDA R. READE
JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA